

Memorandum

To: Christopher Amy, Texas Department of Transportation
Albert Hinojosa, Federal Highway Administration

From: Richard Lopez, Director, HUD San Antonio Field Office

Date: March 18, 2014

Subject: Comments on December 2013 Draft EIS for the Corpus Christi Harbor Bridge Crosstown Expressway Project

Thank you for the opportunity to comment on the December 2013 Draft EIS of the Harbor Bridge Crosstown Expressway project.

The proposed federal action could adversely affect four HUD assisted properties. A summary of these impacts is provided below and in the attached Table 1.

1. **Northside Manor.**

- Northside Manor, constructed in 1969, is a 120-unit HUD Multifamily (MFH), Section 8 project based rental assistance property. It is located at 1401 N Alameda St, Corpus Christi. According to the EIS, highway right of way from this property will be required for the Red and Orange alternatives. This will remove some of the existing units, parking facilities and access, and locate a new highway segment within 10-15 feet of remaining housing units. The new noise source will result in high noise exposure and viewshed impacts to the remaining units, and will diminish the functionality of the property.
- Page 367 states that, line 30, states, “The North Side Manor complex is slated to be replaced by the Palms at Leopard, a 120 unit apartment complex that broke ground in November 2013 and is expected to be completed in December 2014.” The language seems to indicate that HUD has control over occupancy of these apartments. Both Northside Manor and Palms at Leopard are privately owned. Therefore, the owner of Northside Manor will continue to own the property after the transfer of the Section 8 contract and will suffer environmental consequences of the project. Although HUD plans to transfer the Section 8 project based rental assistance from Northside Manor to Palms at Leopard, it does not have control over who the management of Palms at Leopard rents its units to. Therefore, all references throughout the document to give priority to Northside Manor residents for rental units at Palms at Leopard should be deleted from the EIS.
- HUD’s noise exposure regulations are found at 24 CFR Part 51, Subpart B (noise regulations). According to HUD’s Day Night Average Level (DNL) calculator, used to determine compliance with our noise regulation, noise exposure resulting

from the federal action to Northside Manor is 91 dB (noise projections 10 years out will likely be higher). This is in HUD's unacceptable noise zone. The resulting noise and viewshed impacts will reduce the quality of life for the residents and could significantly reduce the market value of this property. HUD would like to clarify that a partial take of the property would affect the entire property. Therefore, loss of the entire property should be fully compensated to the property owner.

2. **Elliott Grant Homes.**

- Elliott Grant Homes, constructed in 1967, are located at 901 N Alameda. This is a 51-unit elderly housing facility for which HUD provides mortgage insurance under the MFH 202 program. The Green and West routes will adversely affect this property because the expanded Highway 37 will be located within 10 feet of the property boundary. According to HUD's DNL calculator, noise exposure will be 92 dB based on 2012 traffic counts (noise projections 10 years out will likely be higher), which according to HUD's noise regulations, is in the unacceptable noise range. HUD request that TXDOT/FHWA adopt noise attenuation measures to reduce indoor noise of the affected units to 45 dB and compensate the property owner for lost property values if either the Green or the West alternatives are selected. In addition, HUD recommends landscaping to mitigate the viewshed concerns.

3. **DN Leathers.**

- DN Leathers I is a 122-unit public housing facility located at 819 Winnebago. 85% of the occupants are minority and 20% are disabled. The Red and Orange alternatives will add new highway approximately 200 feet to the east of the project. The HUD DNL calculation, based on 2012 traffic projections, shows that the project will increase noise exposure to HUD's unacceptable range of 75 dB (noise projections 10 years out will likely be higher). In addition, there will be viewshed concerns for units located at the eastern end of the property. Adverse noise and viewshed impacts will cause reductions in the quality of life and property values. HUD request that TXDOT/FHWA adopt noise attenuation measures to reduce indoor noise of the affected units to 45 dB and compensate the Housing Authority for lost property values if either the Red or the Orange alternatives are selected. In addition, HUD recommends landscaping to mitigate the viewshed concerns.

4. **Navarro Public Housing.**

- The Navarro Public Housing Authority is located at 160 N 19th St. This is a 210-unit low-income public housing facility. 90% of the occupants are minority and 13% are disabled. All of the alternatives adversely affect this property by placing an expanded six-lane roadway 10 to 15 feet from the property boundary. The HUD DNL calculator indicates that the units in closest proximity to the new road

will be exposed to noise levels in the range of 90 dB based on 2012 traffic counts dB (noise projections 10 years out will likely be higher). This exposure is in HUD's unacceptable noise range. HUD understands that a barrier wall is being proposed. However, HUD request that indoor noise mitigation be required for all units where an indoor noise level is greater than 45dB as a result of the project. This could involve a barrier wall or acoustical measures such as insulated windows and enhanced building insulation. In addition, HUD recommends that: 1) the Housing Authority be compensated for lost property values; 2) landscaping to mitigate the viewshed concerns; and, 3) additional lighting and security features be installed that could mitigate against a possible increase in crime resulting from the barrier wall.

In addition to property specific comments, HUD offers the following general comments on the EIS:

1. Environmental Justice Concerns:

- In view of the fact that the two most likely alternatives will introduce a new stretch of Highway 181 through a low income/minority neighborhood community and that all alternatives will involve an enhanced Crosstown Expressway with adverse impacts on another low income/minority community, a greater focus on environmental justice concerns is warranted. In particular, we are concerned about the project's overall impact on the community where HUD assisted housing is located. Since the route alternatives could adversely affect four HUD assisted properties, we request that a summary of impacts to each be included in the Environmental Justice section of the EIS. This summary should addresses displacement, community disruption, noise, air quality/health, and viewshed impacts specifically related to the Northside Manor, Elliott Grant Homes, DN Leathers I, and Navarro Place. The summary should also include public comments received to date from residents of the HUD-assisted housing projects with respect to each of the route alternatives.
- The red alternative proposes to move the existing roads, currently located on the periphery of the north side low income and minority neighborhoods, through the center of this area where the bulk of public housing units are located. Table S.5-1 states that that environmental justice impacts resulting from the red alternative would not be disproportionately high and adverse. However, line 18 of 4-101 states that, due to the concentration of low income and minority populations in the project area, each of the four build alternatives would have some effect on these groups. The red alternative introduces new high levels of noise exposure, viewshed impacts, and quality of life effects that will adversely the residents of Northside Manor, Leathers, and Navarro Place. These impacts are cumulative impacts to the existing adverse environmental conditions of this area associated with close proximity to the refinery area. Thus, the red alternative does appear to adversely affect the predominantly low income and minority populations and the impacts are disproportionate relative to the general population.

- Page 4-105 discusses mitigation measure for environmental justice concerns. As on measure, it proposes that Northside Manor residents be given preferential treatment as applicants for the Palms at Leopard affordable housing development. It also suggest that HUD increase the availability of affordable housing in the community. HUD request that these proposed measures be deleted from the EIS. Mitigation measures should be specific, within the control of the project proponent and enforceable. The Palms at Leopard apartments are privately owned. HUD, TxDOT, and FHWA do not have control over who the owner leases units to.
 - The introduction of high noise exposure is one of the most important adverse environmental consequences to the public housing projects affected by each of the alternatives. However, the EIS does not mention indoor noise attenuation through soundproofing with windows, insulation, etc., as a mitigation option. HUD requests that this be included. HUD requests the project proponents finance indoor noise mitigation measures for the HUD – assisted low income housing project which will be subject to noise exposure above HUD’s Noise Standards as outlined in 24 CFR Part 51, Subpart B.
2. **Map Property Labels.** TxDOT needs to label existing property descriptions within the Draft EIS figures, to clarify HUD property locations.
 3. **Site Contamination.** Contaminated sites could be located near to HUD assisted properties. Measures need to be taken to ensure contamination does not migrate onto HUD assisted properties during highway construction.
 4. **Noise.** The discussion of traffic noise is difficult to follow because references are made to numbered site receptors rather than specific properties. Maps are not available in the body of the document to show which property is being discussed. Therefore, HUD recommends that references be made to the specific property the noise source will affect.

Table 1. Summary of Environmental Impacts and Requested Mitigation Measures for HUD-Assisted Low Income Housing Projects Adversely Affected by the FHWA/TxDOT Corpus Christi Harbor Bridge Crosstown Expressway Project

Project	HP	Displacement	Noise	Noise Mitigation	Air (CO, mobile source air toxics)	Viewshed Impacts	Environmental Justice	Health impacts
Northside Manor: North Units (MFH Section 8)		Orange Alternative-30 units. Buyout of entire property needed.	HUD noise calculation 91 dB.	Requesting indoor noise attenuation to reduce levels to 45dB.	No impacts on any properties for any of the alternatives	Yes, significant. Requesting mitigation and owner compensation for loss of property value.	Yes 50% of total displacements for orange and 25% for red from Northside Manor.	Site contamination to be addressed for all of the alternatives and properties to ensure no migration to HUD assisted projects.
Southern Units Northside Manor Lake street Josephine (MFH Section 8)		Red 10 units Orange 20. HUD requesting buyout of entire property needed.	HUD noise calculation 91 dB.	Mitigation not proposed. Requesting indoor noise attenuation to reduce levels to 45dB.	No impacts on any properties for any of the alternatives	Yes, significant. Requesting mitigation and owner compensation for loss of property value.		Site contamination will be addressed for all of the alternatives and properties to ensure no migration to HUD assisted projects.
Elliot Grant Homes (MFH 202)			HUD noise calculation 92 dB. Unacceptable Range.	Requesting indoor noise attenuation to reduce levels to 45dB.	No impacts on any properties for any of the alternatives	Yes, significant. Requesting mitigation and owner compensation for loss of property value.		Site contamination will be addressed for all of the alternatives and properties to ensure no migration to HUD assisted projects.

Project	HP	Displacement	Noise	Noise Mitigation	Air (CO, mobile source air toxics)	Viewshed Impacts	Environmental Justice	Health impacts
Leathers (Public Housing)	Eligible for Listing on the National Register Ethnic heritage and social history		HUD's noise calculation 75 dB. Unacceptable Range.	Requesting indoor noise attenuation to reduce levels to 45dB.	No impacts on any properties for any of the alternatives	Yes, significant. Requesting mitigation and owner compensation for loss of property value.	Community amenities to mitigate impacts of separating neighborhood from the rest of Corpus.	Site contamination will be addressed for all of the alternatives and properties to ensure no migration to HUD assisted projects.
Navarro Place (Public Housing)	Eligible for Listing on the National Register Ethnic heritage and social history		90 dB. Unacceptable Range.	Requesting indoor noise attenuation to reduce levels to 45dB.	No impacts on any properties for any of the alternatives	Yes, significant. Requesting mitigation and owner compensation for loss of property value.	yes	Site contamination will be addressed for all of the alternatives and properties to ensure no migration to HUD assisted projects.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

OFFICE OF COMMUNITY PLANNING
AND DEVELOPMENT

Christopher Amy
Environmental Coordinator
Texas Department of Transportation, Corpus Christi District
125 East 11th Street
Austin, TX 78701-2483

Dear Mr. Amy:

Thank you for your letter and memorandum of September 24, 2014, regarding HUD's comments on the Environmental Impact Statement for the US 181 Improvements Project (aka Harbor Bridge) in Corpus Christi and specifically its projected noise impacts on the D.N. Leathers public housing development. Some broad policy issues have emerged from the discussion of environmental impacts.

Most importantly, Federal Highway Administration (FHWA) and the Texas Department of Transportation (TxDOT) by extension have very different interests in noise assessment than HUD. HUD's interior noise level goal of 45 decibels (dB) is at the core of the Department's concern for noise. That stems from our mission and its overarching focus on residential land uses. FHWA's concern for noise is completely external; it stops at the building shell. The equivalent sound level for a particular design hour (L_{eq}) metric used by FHWA is another difference. It connotes management of the worst case conditions, but it does not address the incessant drone of traffic noise with which properties in the immediate vicinity of highways must cope or the heightened sensitivity during sleeping hours when ambient noise levels are reduced. The rest of the federal government, including HUD and other modal agencies within the U.S. Department of Transportation (DOT), has adopted the Day Night Noise Level (DNL) metric. The fact that HUD's regulations equate DNL and L_{eq} lessens the concern over DOT's internal inconsistency.

Noise abatement is another divergent issue. To disallow sound insulation of buildings by regulation negates a practical resolution of an adverse condition caused by a highway project. To subject external mitigation to cost and reasonableness tests can undermine community viability. There are impacted properties in the path of Harbor Bridge. Adverse impacts of noise are acknowledged, but mitigation is not allowed. This finding harms the host community and limits its economic potential. Cost and feasibility tests do not avoid or minimize adverse impacts, they justify inaction at the expense of the host community's quality of life and property value appreciation. Noise-sensitive land uses at HUD are generally anywhere where people sleep with homes being the most sensitive, so measures encouraged by FHWA Noise Abatement Criteria D are appropriate. HUD therefore disagrees with the response and requests reconsideration for all properties exposed to more than 65 dB.

There were several comments regarding taking of property. Numerous examples of viewshed impacts as well as reduced quality of life concerns were noted in HUD's comments and acknowledged in TxDOT's responses. These impacts on parcels often extend beyond the physical location of public transportation facilities. Regulatory restrictions were cited as the reason why

property owners were not compensated beyond the purchase of land for rights-of-way. HUD, as an insurer and major financial stakeholder in public housing properties, recognizes the financial burden of adverse impacts on property values. The Department recommends that property owners be compensated for the "taking" of property value by the new highway. In lieu of payment for adverse impacts, a preferred approach would be to include compensation for property value reduction in the formula for evaluating the reasonable and feasible mitigation.

Finally, the FHWA/TXDOT response states that the North Side Manor project is slated for demolition. That is not accurate. A representative of the private owner has informed HUD that the property is for sale. See attached letter from Mr. Ray Lucas. HUD's transfer of the Section 8 HAP units from North Side Manor to the Palms at Leopard did not place any restriction on future land use, and therefore, the future use of the North Side units could remain as residential housing. HUD requests that the references to North Side Manor demolition be revised as appropriate.

Thank you for allowing the Department to comment on this project. We look forward to working to support the sustainability plan for the Hillcrest and Washington Coles neighborhoods and its implementation. Please let me know if HUD staff can be of further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Danielle Schopp".

Danielle Schopp,
Director,
Office of Environment and energy

Encl.

Lucas North Side Manor Property Disposition

LUCAS & ASSOCIATES, L.P.

8610 N. New Braunfels, Suite 536
San Antonio, TX 78217
Phone: (210) 821-4399
Fax: (210) 821-4393
Cell: (210) 508-3357
E-mail: luke007rhl@aol.com

December 5, 2014

Barbara Britton
U.S. Department of Housing and Urban Development
801 Cherry Street, Unit #45
Suite 2500
Fort Worth, TX 76102

Re: Status and Disposition of North Side Manor and its Residents

Dear Ms. Britton:

Thank you for calling me to inquire about the status and disposition of the North Side Manor Apartments. As explained earlier, I am an independent CPA that assists the non-profit ownership with acquisitions and dispositions. During our conversation you requested I summarize the following information.

North Side Manor Apartments is a 120 unit apartment complex in Corpus Christi, Texas. The property is located on two tracts of land as follows:

Tract A - 96 units on Alameda Street
Tract B - 24 units on Lake Street

Current Ownership:

The North Side Manor Apartments are currently owned by HCS 311, LLC, a single asset entity. HCS 311, LLC has a non-profit sole member which is TG 110, Inc., a Texas non-profit 501(c)(3) corporation. TG 110, Inc. has six Corpus Christi residents as directors, two of which are low-income housing resident representatives thus qualifying the organization as a Community Housing Development Organization (CHDO). The Executive Director is Gilbert M. Piette. His contact information is as follows:

Gilbert M. Piette, Executive Director
TG 110, Inc.
8610 North New Braunfels, Suite 500
San Antonio, Texas 78217
Phone: (210) 821-4300
Cell Phone: (210) 259-6243
E-mail: gilp@hscorp.org

TG 110, Inc. is affiliated with Housing and Community Services, Inc., a regional non-profit 501(c)(3) corporation. Gilbert M. Piette is also the Executive Director of Housing and Community Services, Inc.

HUD Involvement:

1. FHA Mortgage Loan – The property had an FHA mortgage loan. The loan has paid off and the lien was released on November 5, 2014. See attached Deed of Release.
2. Housing Assistance Payments Contract (HAP) – The property has a HAP contract covering all 120 units. HUD has approved transfer of the contract to a project whose construction completion is targeted in late December, 2014 (Palms at Leopard Apartments). The new project is approximately one mile from North Side Manor Apartments and is located at the corner of Palm Street and Leopard Street. This transfer should be effective in early January, 2015.
3. M2M Use Agreement – The property has an M2M land use agreement for which HUD has approved the transfer to the new Palms at Leopard Apartments. This transfer should be effective in early January, 2015.
4. Residents – All of the residents currently residing at the North Side Manor Apartments are moving to the Palms at Leopard Apartments on or before December 31, 2014. This is all being done with HUD approval.

Disposition of North Side Manor Apartments:

In early January, 2015, the North Side Manor Apartments will no longer be subject to HUD rules or regulations nor will residents be receiving Federal subsidies or be under any HUD programs.

The non-profit owner of North Side Manor Apartments desires to sell both tracts as soon as practical. It is contemplated that both tracts will be sold separately.

Tract A has a couple of potential buyers who may be placing offers in the next month. The current owner will have no control over what the new owner will do with this tract. One of the potential acquirers is an organization that builds or renovates structures as homeless shelters. Thus they may want to retrofit the buildings accordingly.

Tract B has a pending sales contract which has not been executed. The current owner will have no control over what the new owner will do with this tract. The proposed purchaser has indicated he will maintain the property as residential rental property and lease the units.

Resident Relocation:

The current residents of North Side Manor Apartments are being relocated to the new Palms at Leopard Apartments. At the present time, the current owner is paying the cost of relocations.

Once the two individual tracts comprising North Side Manor Apartments are sold there is no guarantee that the two tracts will not have new tenants. Upon sale and re-occupancy, any future displacement that is prompted by governmental funding could trigger relocation assistance for displaced persons. This could include 42 or 60 months or relocation payments for any new residents moved in by a new owner.

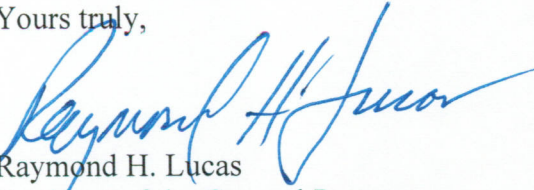
In Conclusion:

The current owner has attempted to minimize any hardship on the part of the residents by any potential future government involvement in the two tracts of North Side Manor Apartments. Though there has been discussion of the potential need by the Texas Highway Department for one or more of the tracts, the owner of the North Side Manor Apartments has not been contacted to discuss. The current owner invites any governmental organization interested in one or both of the tracts to contact either myself or Gilbert M. Piette before the tracts are sold to third parties. The current owner will actively be marketing and / or disposing of these tracts beginning in early January, 2015.

Said otherwise, the best time to discuss the acquisition of one or both of these tracts is right now.

Should you have any questions or if I or Gilbert M. Piette can be of any assistance please contact us. My information is contained at the top of this letter.

Yours truly,



Raymond H. Lucas
President of the General Partner

cc: Gilbert M. Piette, Executive Director, TG 110, Inc.

Attachments:

FHA Deed of Release

When Recorded Return To:
 CT LIEN SOLUTIONS
 PO BOX 29071
 GLENDALE, CA 91209-9071
 Phone #: 800-331-3282

Prepared By:
 BCM-CTLS
 330 NORTH BRAND BLVD., SUITE 700
 GLENDALE, CA 91203

DEED OF RELEASE



For Value Received, the present undersigned Beneficiary under a deed of trust executed by BONILLA & SMITH, A LIMITED PARTNERSHIP ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF TEXAS as Grantor/Trustor, to PATRICK M. DUGGAN as Trustee, dated 04/01/2001, certifies that the Deed of Trust has been fully paid, satisfied or otherwise discharged. The Deed of Trust was recorded on 04/20/2001 in the Deed of Trust Records of Nueces County, Texas, and is indexed as Instrument No: 2001015747.

Loan Amount: \$474,500.00

Original Beneficiary Name: GMAC COMMERCIAL MORTGAGE CORPORATION A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF CALIFORNIA
 Property Address: 1401 N Alameda St, Corpus Christi, TX, 78401

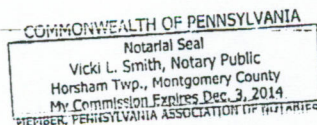
The undersigned releases and reconveys, without covenant or warranty, the Deed of Trust and all of its right, title and interest which was acquired by the Trustee under the Deed of Trust.

Dated this 11/5/14
 Berkadia Commercial Mortgage LLC, a Delaware limited liability company

By: JAMES GAFFNEY, JR.
 Its: AUTHORIZED REPRESENTATIVE

STATE OF PENNSYLVANIA, MONTGOMERY COUNTY

On 11/5/14 before me, the undersigned, a notary public in and for said state, personally appeared JAMES GAFFNEY, JR., AUTHORIZED REPRESENTATIVE of Berkadia Commercial Mortgage LLC, a Delaware limited liability company personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Vicki L. Smith
 Notary Public Vicki L. Smith

Commission Expires: 12/03/2014
 Acting in the County of Montgomery County

Doc# 2014043411
Pages 2
11/07/2014 10:33AM
Official Records of
NUECES COUNTY
DIANA T. BARRERA
COUNTY CLERK
Fees \$19.00

Any provision herein which restricts the Sale,
Rental or use of the described
REAL PROPERTY because of Race, Color,
Religion, Sex, Handicap, Familial Status, or
National Origin is invalid and unenforceable
under FEDERAL LAW, 3/12/89.

STATE OF TEXAS
COUNTY OF NUECES

I hereby certify that this instrument was FILED
in file number sequence on the date and at the
time stamped herein by me, and was duly RECORDED
in the Official Public Records of
Nueces County, Texas
Diana T. Barrera



Diana T. Barrera

TEXAS RIOGRANDE LEGAL AID, INC.

4920 North IH-35, Austin TX 78751
(512) 374-2700, fax (512) 447-3940

January 5, 2015

Christopher Amy
Texas Department of Transportation
1701 S. Padre Island Drive
Corpus Christi, TX 78416
christopher.amy@txdot.gov

Re.: Comments on Final Environmental Impact Statement/Section 4(f) Evaluation, U.S.
181 Harbor Bridge Project

To Mr. Amy:

These comments are submitted on behalf of the Texas State Conference of NAACP Branches, Citizens for Environmental Justice, the Environmental Integrity Project, and the Sierra Club Lone Star Chapter (collectively Commenters) and supplement the comments filed on the Draft EIS on March 14, 2014.

As confirmed by the Final EIS, the proposed bridge and highway would have “disproportionately high and adverse” impacts on Corpus Christi’s minority and low-income populations.¹ These adverse impacts include: exposure to additional air pollution, increased noise, visual intrusions, reductions in residential property values, exposure to hazardous materials, risk of harm from highway accidents, and segregation of the Hillcrest neighborhood from the rest of residential Corpus Christi. Many of these impacts will be suffered at individual residences in the Hillcrest and Washington Coles neighborhoods, as well as at the area’s subsidized/public and elderly housing, and at the neighborhood recreation center and health clinic. Yet the Final EIS fails to consider alternatives that could reduce these impacts, such as reducing the height of the bridge, fails to adequately explain its rejection of less harmful alternatives, fails to objectively consider the adverse impacts of its project, and fails to provide adequate mitigation for the project’s adverse impacts.

The Recommended Alternative moves a highway, with its toxic air pollution and unhealthy noise levels, through the middle of Corpus Christi’s originally segregated neighborhoods; through the middle of the largest park in those neighborhoods; and adjacent to the neighborhood community center and several public housing units. The highway boxes off the low-income, minority Hillcrest neighborhood from the rest of residential Corpus Christi. This project is a poster-child for environmental injustice. Yet instead of objectively documenting the evidence regarding the localized adverse impacts of the various alternatives for this highway

¹ FEIS 2-26 (Nov. 2014).

project, the Final EIS relies on national statistics and average impacts, cherry picks from the public comments, ignores significant concerns of the cooperating federal agencies, and fails to propose adequate mitigation, thus forcing the low-income population of the adjacent neighborhoods to shoulder the negative health, community, and property-value impacts of the project. The Final EIS seems written to advocate for the Recommended Alternative route, rather than to present a fair, objective comparison of alternatives.

Because of these deficiencies and those further discussed in the comments on the Draft EIS², the Final EIS fails to comply with the requirements of the National Environmental Policy Act (NEPA), the provisions of Section 109 of the Federal Highways Act, and Section 4(f) of the Department of Transportation Act and their implementing regulations. Further, issuance of a ROD and construction of US 181 and the Harbor Bridge, as proposed, would violate the Title VI of the Civil Rights Act and its implementing regulations.

1. THE FINAL EIS FAILS TO TAKE A “HARD LOOK” AT THE ENVIRONMENTAL CONSEQUENCES OF THE PROPOSED ACTION AND FAILS TO SUPPORT ITS CONCLUSIONS WITH HIGH-QUALITY EVIDENCE.

As history and scientific studies demonstrate, highways can have very real adverse impacts on the health and viability of communities. Yet the Final EIS fails to objectively evaluate the relative adverse impacts from the various alternatives for this project. The most glaring example of this is the failure to examine local air quality impacts from moving a highway closer to a residential neighborhood and a vulnerable population that has already been exposed to excessive air pollution.

A. Air Quality Impacts: Numerous studies, including several attached to our comments on the Draft EIS, have shown that the pollution from highways is very localized and that it is those living in close proximity to the highway who face significantly elevated exposure to air toxics, diesel particulate matter, and other highway emissions.³ Studies also confirm that potential negative health impacts associated with living close to traffic sources are premature mortality, exacerbation of preexisting respiratory health conditions, such as asthma, and poor cardiovascular health.⁴ Yet the Final EIS fails to document the differences in the populations exposed to increased air pollution with the various highway alternatives, fails to include any discussions of the health impacts that are known to be related to highway emissions, and fails to consider the unique cumulative emissions to which Hillcrest and Washington Coles residents are exposed.

- *The Final EIS Should Have Analyzed the Toxic Pollution Impacts of Each of the Alternatives and the Populations Exposed:* The Final EIS acknowledges that localized increases

² See Attachment 1; Comments on Draft EIS.

³ See in particular, Attachment 10 to those Draft EIS comments. Alex Karner, et al., *Near-Roadway Air Quality: Synthesizing the Findings from Real-World Data*, 44 ENVIRON. SCI. TECHNOL. (2010).

⁴ Health Effects Institute (2010), *Traffic-Related Air Pollution: A Critical Review of the Literature on Emissions, Exposure and Health Effects*, vol. 17, Health Effects Institute Special Report, Health Effects Institute. Available at <http://pubs.healtheffects.org/view.php?id=334>.

in Mobile Source Air Toxics emissions may occur and “would likely be most pronounced along new roadway sections constructed closer to adjacent residential areas.”⁵ The Final EIS fails, however, to document the differences in where those increases are likely to occur, and in the populations and potentially sensitive groups (such as the elderly) that would be exposed with the different highway routes. Contrary to statements in the Final EIS, such an analysis, considering local background pollution levels, vehicle mixes, and meteorology, is feasible, has been conducted in other locations, and would provide information about the localized air toxic impacts of the various alternatives that is essential for analyzing the environmental justice impacts of this project.⁶ It is not enough to note that nationwide air toxics emissions from vehicles will decline by 2035.

Similarly, the Final EIS fails to include an objective discussion of the health impacts associated with the toxic pollutants that will be emitted by vehicles travelling on US 181. While it may not be possible to predict the exact health impacts, there are known impacts of highway pollution that should have been discussed in the Final EIS, particularly given the unique location of these neighborhoods and their cumulative exposure to pollution. As an example, the Final EIS dismisses Hillcrest residents’ concerns about benzene exposure by noting that, “the TCEQ air monitoring system in the Refinery Row area has consistently documented ambient benzene levels well below that which the TCEQ considers to be a health concern.”⁷ The Corpus Christi area was, however, on TCEQ’s Air Pollutant Watch List for benzene until 2010, due to high levels of benzene from 1998 (when monitoring began) until 2006. And while current benzene levels may not exceed TCEQ’s standards, as recently as 2012, they exceed the health based limits established by other jurisdictions.⁸

- *The Final EIS Should Have Included a Discussion of the Current Science Regarding Ozone and Possible Health Impacts:* The Final EIS includes no analysis of the project impacts on ozone levels in Corpus Christi, but merely notes that the area is currently in attainment or unclassifiable for all National Ambient Air Quality Standards.⁹ The Final EIS reports that the 2011-2013 three-year average ozone level at the two Corpus Christi regulatory monitors was 0.070 ppm. As the Final EIS asserts, this is below the current NAAQS for ozone of 0.075 ppm and a formal conformity analysis is not required.

A NEPA analysis, however, requires that environmental impacts be considered based on current scientific expertise. Corpus Christi has for years been on the edge of noncompliance with the current ozone standard and noncompliance would have not only significant health impacts, but significant economic impacts for the City. The U.S. Environmental Protection Agency, has been reviewing its ozone standards (as required under the Clean Air Act) since 2008; in February 2013 it released its Integrated Science Assessment for Ozone and Related

⁵ FEIS 4-125 (Nov. 2014).

⁶ Alex Karner, et al., *Near-Roadway Air Quality: Synthesizing the Findings from Real-World Data*, 44 ENVIRON. SCI. TECHNOL. (2010).

⁷ FEIS 3-40 (Nov. 2014).

⁸ See California Environmental Protection Agency, Office of Environmental Health Hazard Assessment, Benzene Reference Exposure Levels, Technical Support Document for the Derivation of Noncancer Reference Exposure Levels Appendix D1, available at http://www.oehha.ca.gov/air/chronic_rels/pdf/BenzeneRELS_SRPdraft012214.pdf.

⁹ FEIS, 4-122 (Nov. 2014).

Photochemical Oxidants; and in December 2014, it proposed a new ozone NAAQS of between 0.065 and 0.070 ppm.¹⁰ The Final EIS should have, at a minimum, included a discussion of current science regarding health impacts from various ozone levels and the likely impact to local ozone levels from the project and associated increases in Port activity.

B. Impacts from Port Expansion: This highway project is inextricably tied to the Port of Corpus Christi and its expansion plans. Yet the Final EIS fails to take a hard look at the impacts of the proposed project on the Port and its associated emissions.

The project has as one of its “objectives” to “provide the transportation infrastructure to support economic opportunities in the area.”¹¹ Comments by the Port of Corpus Christi state that the current vertical clearance of the bridge, “restricts the size of ships that can currently enter the Inner Harbor, thus inhibiting economic growth in Corpus Christi. Raising the height of the Harbor Bridge will open up new economic opportunities brought by larger vessels ...”¹²

The cumulative effects section acknowledges that between 2007 and 2030, bulk carriers are anticipated to increase by approximately 186 percent at the Port.¹³ It also states that there will be additional highway and rail expansions of the transportation network in support of Port activity¹⁴ and that industrial development associated with the Port is expected to occur.¹⁵

The Final EIS, however, fails to analyze the impacts related to this Port expansion and, in particular, the differences in the people and communities impacted for the various alternatives. Instead, the Final EIS merely states that a national rule will likely reduce overall emissions associated with rail, ships and trucks. The projected increases in bulk carriers, however, will impact the traffic volumes and the traffic mix on US 181 and local roadways. More bulk goods coming into or out of the Port will have to connect to land transportation, increasing diesel truck traffic on the adjacent road system and highway. The Final EIS should: (1) analyze these impacts of the project (in terms of projected near road emission levels along the various alternatives), (2) explain the differences in the demographics and sensitivities of the populations that will be exposed increased emissions, and (3) include information regarding the potential health impacts of such pollutants.

C. Noise: The Final EIS fails to adequately respond to concerns raised regarding the project’s noise analysis, particularly those raised by the U.S. Department of Housing and Urban Development. In addition, while the Final EIS documents existing ambient noise levels and projected noise levels of the alternatives, it fails to include any information about the human physiological impacts of traffic noise. Likewise, the noise analysis also fails to adequately address environmental justice concerns relating to noise, including impacts to sensitive receivers, such as the elderly utilizing the Oveal Williams Senior Center and residing in the elderly housing

¹⁰ U.S. EPA, Integrated Science Assessment for Ozone and Related Photochemical Oxidants (Final), available at <http://cfpub.epa.gov/ncea/isa/recordisplay.cfm?deid=247492>; Proposed Rule, National Ambient Air Quality Standards for Ozone, 79 Fed.Reg. 75234 (Dec. 17, 2014).

¹¹ FEIS 1-8 (Nov. 2014).

¹² FEIS Appendix K, Comment HB-AC4b.

¹³ FEIS 7-50 (Nov. 2014).

¹⁴ FEIS 7-52 – 7-56 (Nov. 2014).

¹⁵ FEIS 7-56 (Nov. 2014).

units, who are more likely to have difficulty hearing conversations with increased background noise. Finally, the mitigation proposed for the noise and related environmental justice impacts is inadequate.

D. *Environmental Justice/Community Impacts:* The Final EIS fails to analyze the impacts that an elevated highway is likely to have on the viability of residential neighborhoods and on the value of properties adjacent to the highway. The only related impacts analyzed in detail, by alternative, in the Final EIS, are noise impacts. The “land use” analysis consists largely of conclusory statements about the consistency of the alternatives with various land use and transportation plans, which are unsupported by facts. The analysis ignores current studies documenting the community severance and lowered property values caused by highway infrastructure, particularly elevated highways.¹⁶

The analysis also fails to acknowledge the long history of highway construction in low-income and minority neighborhoods and the impacts that such construction has had on the viability of those neighborhoods. Segregating the Hillcrest neighborhood from the rest of residential Corpus Christi will likely change the quality of life for residents of Hillcrest, cause residential property values to diminish, hasten its conversion from residential use, and will adversely impact the availability of low-income housing in Corpus Christi. None of this is analyzed in the Final EIS.

E. *Hazardous Materials:* The Final EIS fails to adequately document impacts from and methods for minimizing the risk due to hazardous materials present in the soil and water along the various routes travel. While the Final EIS documents the locations of numerous hazardous materials sites, it does not evaluate the relative risks or costs related to construction at those sites. The Final EIS also fails to address the risks from accidents, including accidents involving trucks carrying hazardous materials, on an elevated highway above the community.

2. THE FINAL EIS DOES NOT IDENTIFY ADEQUATE MITIGATION FOR ITS ADVERSE IMPACTS.

The Final EIS fails to identify adequate mitigation for the project’s high, adverse, and disproportionate impacts. FHWA has an obligation to mitigate the acknowledged high and adverse impacts of this project on low-income and minority residents. It should not repeat the mistakes of the past and force these residents to bear the brunt of the adverse health, noise, and quality of life impacts from this highway. The Harbor Bridge is a billion dollar project and the allocation of what would be a tiny percentage of those project costs to ameliorate the adverse impacts of this project is warranted.

¹⁶ See Attachment 2 - Grisolia, Jose Maria, Lopez, Francisco & de Dios Ortuzar, Juan, *Valuing Amenities to Reduce Community Severance*, Paper at the European Association of Environmental and Resources Economists (June-July 2011); Institute for Transportation and Development Policy, *The Life and Death of Urban Highways* (March 2012), https://www.itdp.org/wp-content/uploads/2014/07/42.-LifeandDeathofUrbanHighways_031312.pdf; Attachment 3 - Cervero, Robert, *Freeway Deconstruction and Urban Regeneration in the United States*, Paper Prepared for the International Symposium for the 1st Anniversary of the Cheonggyecheon Restoration Seoul, Korea (Oct. 2006).

The Final EIS should have committed to specific mitigation measures. These should include:

- The purchase of properties for an expanded buffer around the highway to reduce noise, air pollution, and segregation impacts.
- Compensation and or funding to mitigate environmental justice impacts (such as air pollution, noise, and visual impacts) that reduce property values and quality of life at residences that remain in the project area, including installation of central air and new windows.
- Funding for and binding agreements with the City of Corpus Christi to construct new low-income housing in areas not adversely impacted by the project.
- Funding, including funding for experts, for a community planning effort to be led by Hillcrest residents.

The creation of a new park and trail, a “Livability Summit” held on October 15, 2014, and a plan to help identify potential grant opportunities that may or may not be funded in the future, do not compensate for impacts such as elevated noise and pollution levels in the Hillcrest and Washington Coles neighborhoods and at key community facilities, increased segregation and “loss of cohesion” for the Hillcrest community, and construction impacts. The Final EIS should have committed to specific mitigation measures that actually address the impacts of the project.

3. THE FINAL EIS FAILS TO CONSIDER REASONABLE ALTERNATIVES AND THE 4(F) ANALYSIS FAILS TO SELECT THE LEAST HARM ALTERNATIVE.

The Final EIS states that the two purposes for the project are: (1) maximizing the long-term highway operability of the US 181 crossing of the Corpus Christi Ship Channel and (2) improving safety for the traveling public, including during hurricane evacuations. Yet the FEIS fails to consider alternatives that would meet these purposes, such as those that would lower the height of the proposed bridge and, thereby potentially reduce environmental justice impacts as well as impacts to 4(f) resources.

Similarly, the final EIS fails to present an objective comparison of the 4(f) impacts of the various alternatives, fails to support its conclusions with evidence, and fails to select the least harm alternative.

4. TXDOT/FHWA SHOULD HAVE ISSUED A SUPPLEMENTAL DRAFT EIS.

Finally, The Final EIS includes new information not included in the Draft EIS, which warrants issuance of a supplemental DEIS. The Final EIS makes significant changes to the Recommended Alternative and relies on more current traffic data that significantly change the environmental justice, air quality and noise analyses. Numerous commenters, including federal cooperating agencies, raised specific concerns about environmental justice, air quality, and noise impacts of the project. The Final EIS acknowledges that, “air quality and traffic noise are greatly influenced by projected traffic volumes on the proposed facility and elsewhere in the transportation network.” TxDOT and FHWA should have issued a Supplemental Draft EIS to

allow interested parties sufficient time to review and comment on these new analyses and impacts.

In addition, the physical change in the Recommended Alternative, going from one bridge to two, causes significant new impacts in terms of wetlands and waters of the U.S. and hazardous materials. The permanent impacts to wetlands increase more than fivefold.

CONCLUSION

Corpus Christi and in particular, the historically segregated Hillcrest and Washington-Coles neighborhoods, deserve a full and fair analysis of the significant and long-term impacts of the new Harbor Bridge on their neighborhoods. The Final EIS fails to provide this analysis. Despite concerns raised about the Draft EIS by Commenters and cooperating federal agencies, the Final EIS fails to consider the full range of impacts from the project, including: localized toxic and other air pollution impacts, impacts from increased Port traffic and cargo, and impacts to the community that will be isolated from residential Corpus Christi.

Adding insult to injury, the impacts from the new Harbor Bridge that the Final EIS does include, are admittedly “disproportionately high and adverse” to Corpus Christi’s minority and low-income populations. However, the Final EIS fails to consider alternative routes or commit to mitigation that could reduce or eliminate these adverse environmental justice impacts.

To meet the requirements of the National Environmental Policy Act, the Federal Highways Act, the Department of Transportation Act, Title VI of the Civil Rights Act, and their implementing regulations, TxDOT must address the deficiencies noted above before issuing a final Record of Decision.

Sincerely,

 by penin

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